

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

Angela Wolgamott v. Eric B. Mills, Continental Express, Inc.

Case Number 49D05-2103-CT-009797  
Court Marion Superior Court 5  
Type CT - Civil Tort  
Filed 03/22/2021  
Status 03/22/2021 , Pending (active)

Parties to the Case

Defendant Mills, Eric B.

Address

5618 E. Michigan St.  
Indianapolis, IN 46219

Defendant Continental Express, Inc.

Address

10450 State Route 47  
Sidney, OH 45365

Attorney

Christopher R Whitten  
#2042949, Lead, Retained

WHITTEN LAW OFFICE  
6801 Gray Road  
Suite H  
Indianapolis, IN 46237  
317-362-0225(W)

Attorney

James Lee Culp  
#2632649, Retained

WHITTEN LAW OFFICE  
6801 Gray Road  
Suite H  
Indianapolis, IN 46237  
317-362-0225(W)

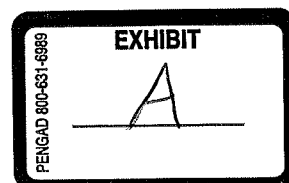
Plaintiff Wolgamott, Angela

Attorney

Carolyn Christine Ely  
#2836822, Retained

1601 Business Center Court  
Louisville, KY 40299  
502-458-1000(W)

Chronological Case Summary



03/22/2021 **Case Opened as a New Filing**

03/23/2021 **Appearance Filed**

Appearance

For Party: Wolgamott, Angela

File Stamp: 03/22/2021

03/23/2021 **Complaint/Equivalent Pleading Filed**

Complaint

Filed By: Wolgamott, Angela

File Stamp: 03/22/2021

03/23/2021 **Subpoena/Summons Filed**

Summons

Filed By: Wolgamott, Angela

File Stamp: 03/22/2021

03/23/2021 **Subpoena/Summons Filed**

Summons

Filed By: Wolgamott, Angela

File Stamp: 03/22/2021

04/06/2021 **Appearance Filed**

Appearance

For Party: Mills, Eric B.

For Party: Continental Express, Inc.

File Stamp: 04/05/2021

04/06/2021 **Motion for Enlargement of Time Filed**

Motion for Enlargement of Time

Filed By: Mills, Eric B.

Filed By: Continental Express, Inc.

File Stamp: 04/05/2021

04/07/2021 **Order Granting Motion for Enlargement of Time**

Up to and including 05/24/2021

Judicial Officer: Chavis, John M.T., II

Order Signed: 04/06/2021

04/08/2021 **Automated Paper Notice Issued to Parties**

Order Granting Motion for Enlargement of Time ---- 4/7/2021 : Eric B. Mills

04/08/2021 **Automated ENotice Issued to Parties**

Order Granting Motion for Enlargement of Time ---- 4/7/2021 : Christopher R Whitten;Carolyn Christine Ely;James Lee Culp

## Financial Information

\* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

**Wolgamott, Angela**

Plaintiff

0.00

Charge Summary

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

Transaction Summary

Date	Description	Amount
03/23/2021	Transaction Assessment	157.00
03/23/2021	Electronic Payment	(157.00)

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STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION    )

IN THE MARION \_\_\_\_\_ COURT

ANGELA WOLGAMOTT, PERSONAL    )  
REPRESENTATIVE FOR THE ESTATE    )  
OF KEVIN RAY BROWNING,         )  
DECEASED,                         )

Plaintiff,    )

vs.            )

Cause no. \_\_\_\_\_

CONTINENTAL EXPRESS, INC. and    )  
ERIC MILLS,                         )

Defendants.    )

### COMPLAINT AND DEMAND FOR JURY TRIAL

Comes now Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, by counsel, and for his claims and causes of action against Defendants herein, states as follows:

1. Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, was at all times relevant herein, a resident of 1521 Hiatt Street, Indianapolis, Indiana 46221.

2. Angela Wolgamott was appointed as the personal representative for the Estate of Kevin Ray Browning, deceased on April 11, 2019 in the Marion Superior 8 Court, under cause number 49D08-1904-ES-014784.

3. Defendant, Continental Express, Inc., is a foreign corporation duly organized and existing under the laws of the Ohio and doing business in the State of Indiana with a principal office address of 10450 State Route 47, Sidney, Ohio 45365

whose agent for service of process is Russell L. Gottemoeller, located at 4480 State Route 705, Ft. Loramie, Ohio 45845.

4. Defendant, Eric B. Mills, to the best of Plaintiff's knowledge and information, is and was at all times relevant herein, a resident of 5618 E. Michigan Street, Indianapolis, Marion County, Indiana 46219.

5. The wreck which is the subject of this Complaint occurred in Marion County, Indiana.

6. That on or about the 26<sup>th</sup> day of March 2019, Kevin Browning, was driving a 2007 EX500 Kawasaki motorcycle with all due care on Minnesota Street in Marion County, Indiana.

7. That on that date and at the place set out above, Defendant, Eric B. Mills, was driving a 2013 Freightliner semi tractor-trailer, operated by Defendant, Continental Express, Inc., under the DOT number 251206 and DOT authority of Defendant Continental Express, Inc.

8. That on that date, at the place and at the time set out above Defendant, Eric B. Mills, turned left across oncoming traffic and in front of Kevin Browning's motorcycle causing Kevin Browning to collide with the trailer of the vehicle operated by Defendant Eric B. Mills.

9. That as a direct and proximate result of the above described collision, Kevin Browning suffered severe bodily injuries resulting in his death.

COUNT I: NEGLIGENCE AS TO ERIC B. MILLS

10. Plaintiff, Angela Wolgamott, Personal Representative For the Estate of

Kevin Ray Browning, deceased, adopts and reiterates each and every allegation in paragraphs 1 to 9 as if set out fully herein and incorporates the same by reference.

11. Defendant Eric B. Mills's had a duty to yield to oncoming traffic and, as such, his operation of semi tractor-trailer at the time of the above described collision was negligent.

12. That as a direct and proximate result of the aforementioned negligence of Defendant, Eric B. Mills, in driving the semi tractor-trailer operated by Defendant, Continental Express, Inc., Kevin Browning, suffered severe bodily injury and was wrongfully killed.

13. That as a direct and proximate result of the aforementioned negligence of Defendant, Eric B. Mills, in driving the semi tractor-trailer operated by Defendant, Continental Express, Inc., the Estate of Kevin Ray Browning, deceased, has incurred medical expenses and physician expenses.

14. That as a direct and proximate result of the aforementioned negligence of Defendant, Eric B. Mills, in driving the semi tractor-trailer operated by Defendant, Continental Express, Inc., the Estate of Kevin Ray Browning, deceased, has incurred funeral and burial expenses.

15. That as a direct and proximate result of the aforementioned negligence of Defendant, Eric B. Mills, in driving the semi tractor-trailer operated by Defendant, Continental Express, Inc., Kevin Browning, ability to earn money and provide for his dependent(s) was destroyed.

COUNT II: RESPONDEAT SUPERIOR AS TO CONTINENTAL EXPRESS, INC.

16. Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, adopts and reiterates each and every allegation in paragraphs 1 to 15 as if set out fully herein and incorporates the same by reference.

17. On the date and at the time of the incident complained of herein, Defendant Eric B. Mills, was an employee, agent, servant, or representative or ostensible employee, agent, servant, or representative of Defendant, Continental Express, Inc., was acting within the scope and course of his employment or agency and/or as a representative of Defendant, Continental Express, Inc.

18. Based upon the employee-employer, master-servant, agency, and/or representative relationship, which existed between Defendant, Eric B. Mills, and Defendant, Continental Express, Inc., at the time of the incident complained of herein, Defendant Continental Express, Inc. is liable for the negligence of Defendant, Eric B. Mills under the doctrine of respondeat superior or vicarious liability.

### COUNT III: NEGLIGENT HIRING AND RETENTION

19. Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, adopts and reiterates each and every allegation in paragraphs 1 to 18 as if set out fully herein and incorporates the same by reference.

20. That Defendant Continental Express, Inc., knew or should have known, through the use of ordinary care when it hired Defendant Eric B. Mills that Defendant Eric B. Mills was a negligent and careless driver.

21. That Defendant Continental Express, Inc., upon the use of ordinary care in

determining that Defendant, Eric B. Mills was a negligent and/or careless driver, was negligent in retaining Defendant, Eric B. Mills as an employee and allowing said employee to continue to use its motor vehicle in such a negligent manner so as to cause it to collide with the vehicle operated by the Plaintiff, thereby causing Plaintiff to suffer bodily injuries resulting in death.

22. That as direct and proximate result of the negligence of Defendant, Continental Express, Inc., in hiring and/or retaining Defendant, Eric B. Mills, Plaintiff was caused to suffer serious bodily injuries and because of the bodily injuries sustained by Plaintiff, Plaintiff has sustained severe and permanent bodily injury; has incurred medical bills and expenses; has suffered pain, mental anguish and inconvenience; and has incurred a permanent impairment and/or death to labor and earn money for his dependant(s).

COUNT IV: NEGLIGENT SUPERVISION AND TRAINING

23. Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, adopts and reiterates each and every allegation in paragraphs 1 to 18 as if set out fully herein and incorporates the same by reference.

24. That Defendant Continental Express, Inc. had a duty to ensure that its drivers are properly trained, licensed, and qualified to operate commercial vehicles.

25. That Defendant Continental Express, Inc. failed to properly train and/or supervise Defendant Eric B. Mills to safely operate the vehicle that he was driving on the aforementioned date.

26. That as a direct and proximate result of the negligence of Defendant Continental



Express, Inc. in failing to properly train and/or supervise Defendant Eric B. Mills, Plaintiff was caused to suffer serious bodily injuries, as well as, pain, suffering, mental anguish, and inconvenience resulting in death.

27. That as a direct and proximate the negligence of Defendant Continental Express, Inc. in failing to properly train and/or supervise Defendant Eric B. Mills, Plaintiff has incurred, medical expenses and physician expenses.

28. That as a direct and proximate the negligence of Defendant Continental Express, Inc. in failing to properly train and/or supervise Defendant Eric B. Mills, Plaintiff has suffered permanent impairment and/or death which altered the ability to earn money to financially provide in the future for dependant(s).

COUNT VI: LOSS OF CONSORTIUM

29. Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, adopts and reiterates each and every allegation in paragraphs 1 to 28 as if set out fully herein and incorporates the same by reference.

30. At the time of his death, Kevin Browning had one dependant, minor daughter, F.J.K.

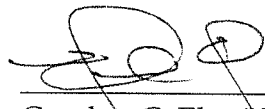
31. As a direct result of the negligence of Defendant(s) described and complained of herein, F.J.K. has suffered the loss of her father and is love, affection, companionship, support, and services and all of her damages are in an amount that exceeds the minimum jurisdiction of this Court.

WHEREFORE, Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, by counsel, requests a judgement against the

Defendants in favor of the Plaintiff in an amount reasonably calculated to compensate Plaintiff for her damages including:

1. Past medical expenses;
2. Funeral and burial expenses;
3. Costs of administration;
4. Destruction of Kevin Browning's capacity to labor and earn income;
5. Judgment against Defendant(s) for compensatory damages in an amount in excess of the amount necessary to invoke the jurisdiction of this court and reasonably calculated to compensate F.J.K. for her claims for consortium;
6. Prejudgment interest;
7. Trial by jury; and
8. Any and all other appropriate relief to which Plaintiff may appear to be justly entitled.

Respectfully submitted,



---

Carolyn C. Ely, #28368-22  
Isaacs & Isaacs, P.S.C.  
1601 Business Center Court  
Louisville, Kentucky 40299-2370  
Telephone: (502) 458-1000  
Facsimile: (502) 454-5512  
Email: [ely@isaacsandisaacs.com](mailto:ely@isaacsandisaacs.com)  
*Counsel for Plaintiff, Angela Wolgamott, Personal  
Representative For the Estate of Kevin Ray Browning,  
deceased,*

**DEMAND FOR JURY TRIAL**

Comes now the Plaintiff, Angela Wolgamott, Personal Representative For the Estate of Kevin Ray Browning, deceased, and demands a trial by jury on all issues so triable.

A handwritten signature in black ink, appearing to read 'Carolyn C. Ely', written over a horizontal line.

Carolyn C. Ely, #28368-22

49D05-2103-CT-009797

Marion Superior Court 5

Filed: 3/22/2021 5:54 PM

Clerk

Marion County, Indiana

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF MARION        )

IN THE MARION \_\_\_\_\_ COURT

ANGELA WOLGAMOTT, PERSONAL        )  
REPRESENTATIVE FOR THE ESTATE        )  
OF KEVIN RAY BROWNING,                )  
DECEASED,                                 )

Plaintiff,        )

vs.                )

Cause no. \_\_\_\_\_

CONTINENTAL EXPRESS, INC. and ERIC        )  
MILLS,   )

Defendants.        )

#### APPEARANCE

1. Initiating Party: Angela Wolgamott, Personal Representative for the Estate of Kevin Ray

Browning, deceased.

2. Attorney Information:

Carolyn C. Ely, #28368-22  
Isaacs & Isaacs, P.S.C.  
1601 Business Center Court  
Louisville, Kentucky 40299  
Telephone: (502) 458-1000  
Facsimile: (502) 454-5512  
Email: [Ely@isaacsandisaacs.com](mailto:Ely@isaacsandisaacs.com)

3. Are there other party members? No.

4. Case type requested: Civil Tort (CT)

5. Accept: (a) Fax Service: No.  
(b) Courthouse Mailbox: No.

6. Does this case involve support issues? No.

7. Are there related cases? No.

8. Has this form been served on all other parties with certificate of service attached? No.

Additional Information: None.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'C. Ely', written over a horizontal line.

Carolyn C. Ely, #28368-22

Isaacs & Isaacs, P.S.C.

1601 Business Center Court

Louisville, Kentucky 40299-2370

Telephone: (502) 458-1000

Facsimile: (502) 454-5512

Email: [ely@isaacsandisaacs.com](mailto:ely@isaacsandisaacs.com)

*Counsel for Plaintiff, Angela Wolgamott, Personal  
Representative For the Estate of Kevin Ray Browning,  
deceased,*

49D05-2103-CT-009797

Filed: 3/22/2021 5:54 PM

Clerk

Marion County, Indiana

STATE OF INDIANA )  
 ) SS: IN THE MARION COURT  
 COUNTY OF MARION )

ANGELA WOLGAMOTT, PERSONAL )  
 REPRESENTATIVE FOR THE ESTATE OF )  
 KEVIN RAY BROWNING, DECEASED, )  
 )  
 )  
 Plaintiff, )  
 )  
 vs. ) Cause no. \_\_\_\_\_  
 )  
 CONTINENTAL EXPRESS, INC. and ERIC )  
 MILLS, )  
 )  
 Defendants. )

SUMMONS

THE STATE OF INDIANA TO: Continental Express, Inc.  
 ADDRESS: c/o Russell L. Gottemoeller  
 4480 State Route 705  
 Ft. Loramie, OH 45845

You have been sued by the Plaintiff in the Court stated above.

The nature of the suit against you is stated in the Complaint, which is attached to this Summons. It also states the demand, which the Plaintiff has made against you.

You or your attorney must answer the petition in writing and your written answer must be filed with the Court within twenty (20) days after your receive this Summons or within twenty-three (23) days if you received this Summons by mail, or a judgment will be entered against you for what the Plaintiff has demanded in the attached petition.

If you deny the demand, or if you have a claim against the Plaintiff, you must assert it in your written Answer.

It is suggested that you immediately consult an attorney of your choice regarding this matter.

The following manner of service of Summons is hereby designated: CERTIFIED MAIL

3/23/2021

Dated: \_\_\_\_\_

MARION COUNTY CLERK



49D05-2103-CT-009797

Filed: 3/22/2021 5:54 PM

Clerk

Marion County, Indiana

STATE OF INDIANA )  
 ) SS: IN THE MARION COURT  
 COUNTY OF MARION )

ANGELA WOLGAMOTT, PERSONAL )  
 REPRESENTATIVE FOR THE ESTATE OF )  
 KEVIN RAY BROWNING, DECEASED, )

Plaintiff, )

vs. )

Cause no. \_\_\_\_\_

CONTINENTAL EXPRESS, INC. and ERIC )  
 MILLS, )

Defendants. )

### SUMMONS

THE STATE OF INDIANA TO: Eric B. Mills  
 ADDRESS: 5618 E. Michigan St.  
 Indianapolis, IN 46219

You have been sued by the Plaintiff in the Court stated above.

The nature of the suit against you is stated in the Complaint, which is attached to this Summons. It also states the demand, which the Plaintiff has made against you.

You or your attorney must answer the petition in writing and your written answer must be filed with the Court within twenty (20) days after your receive this Summons or within twenty-three (23) days if you received this Summons by mail, or a judgment will be entered against you for what the Plaintiff has demanded in the attached petition.

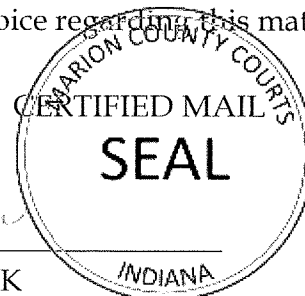
If you deny the demand, or if you have a claim against the Plaintiff, you must assert it in your written Answer.

It is suggested that you immediately consult an attorney of your choice regarding this matter.

The following manner of service of Summons is hereby designated: CERTIFIED MAIL

Dated: 3/23/2021 \_\_\_\_\_

MARION COUNTY CLERK



STATE OF INDIANA        )  
                                  ) SS:       IN THE MARION SUPERIOR COURT  
COUNTY OF MARION    )       CAUSE NO. 49D05-2103-CT-009797

ANGELA WOLGAMOTT, PERSONAL        )  
REPRESENTATIVE FOR THE ESTATE       )  
OF KEVIN RAY BROWNING,               )  
DECEASED,                                )

Plaintiff,                                )

v.    )

CONTINENTAL EXPRESS, INC. and        )  
ERIC MILLS,                                )

Defendants.                                )

**APPEARANCE BY ATTORNEY IN CIVIL CASE**

Party Classification:     **Defendants**

1.     The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s):

**Continental Express, Inc. and Eric Mills**

2.     Applicable attorney information for service as required by Trial Rule 5(B)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

Christopher R. Whitten, Attorney No. 20429-49

James L. Culp, Attorney No. 26326-49

WHITTEN LAW OFFICE

6801 Gray Road, Suite H

Indianapolis, IN 46237

(317) 362-0225 Telephone

(317) 362-0151 Facsimile

[cwhitten@indycounsel.com](mailto:cwhitten@indycounsel.com)

[jculp@indycounsel.com](mailto:jculp@indycounsel.com)

3.     There are other party members: No.

4.     If first initiating party filing this case, the Clerk is required to assign this case the following Case Type under Administrative Rule 8(b)(3): N/A.

5.     I will accept service by FAX at the above noted number: No.



6. This case involves support issues. No. (If yes, supply social security number for all family members).

7. There are related cases: No.

8. This form has been served on all other parties. Certificate of Service is attached: Yes.

9. Additional information required by local rule: N/A.

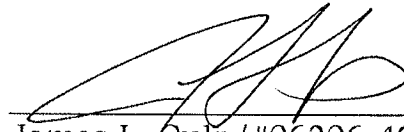
Respectfully submitted,

WHITTEN LAW OFFICE



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Christopher R. Whitten / #20429-49



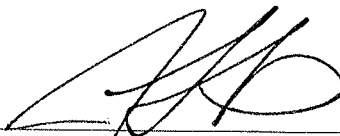
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James L. Culp / #26326-49  
*Counsel for Defendants Continental  
Express, Inc. and Eric Mills*

**CERTIFICATE OF SERVICE**

I do hereby certify that a copy of the foregoing has been served upon the following by electronic mail, this 5<sup>th</sup> day of April 2021:

Carolyn C. Ely, Esq.  
ISAACS & ISSACS, P.S.C.  
1601 Business Center Court  
Louisville, KY 40299-2370  
*Counsel for Plaintiff*

  
\_\_\_\_\_  
Christopher R. Whitten  
James L. Culp

WHITTEN LAW OFFICE  
6801 Gray Road, Suite H  
Indianapolis, IN 46237  
PH: 317/362-0225  
FX: 317/362-0151

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION     )

IN THE MARION SUPERIOR COURT

CAUSE NO. 49D05-2103-CT-009797

ANGELA WOLGAMOTT, PERSONAL        )  
REPRESENTATIVE FOR THE ESTATE     )  
OF KEVIN RAY BROWNING,            )  
DECEASED,                            )  
  )  
                                  Plaintiff,        )  
  )  
                                  v.                    )  
  )  
CONTINENTAL EXPRESS, INC. and     )  
ERIC MILLS,                            )  
  )  
                                  Defendants.        )

**MOTION FOR ENLARGEMENT OF TIME**

Defendants, Continental Express, Inc. and Eric Mills ("Defendants"), by counsel, respectfully request the Court for an enlargement of time of 30 days to respond to the Complaint ("Complaint") of Plaintiff, Angela Wolgamott, Personal Representative for the Estate of Kevin Ray Browning, Deceased, and in support thereof, state as follows:

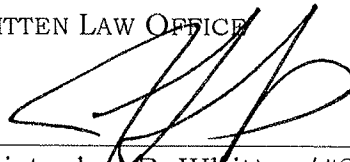
1. On or about April 1, 2021, Defendant, Continental Express, Inc. was served with a copy of the Summons and Complaint via certified mail.
2. Defendant Eric Mills has not yet been served with a copy of the Summons and Complaint.
3. The time for Defendants to respond to Plaintiff's Complaint has not yet expired.
4. Counsel for Defendants requires additional time to confer with his clients and to prepare an appropriate response to the Complaint.

5. No prior enlargement of time has been requested or obtained.

WHEREFORE, Defendants, Continental Express, Inc. and Eric Mills, by counsel, respectfully requests the Court for an enlargement of time of 30 days up to and including May 24, 2021, in which to respond to the Complaint and for all other just and proper relief.

Respectfully submitted,

WHITTEN LAW OFFICE

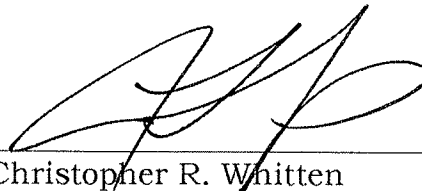


Christopher R. Whitten / #20429-49  
James L. Culp / #26326-49  
*Counsel for Defendants Continental  
Express, Inc. and Eric Mills*

**CERTIFICATE OF SERVICE**

I do hereby certify that a copy of the foregoing has been served upon the following by electronic mail, this 5<sup>th</sup> day of April 2021:

Carolyn C. Ely, Esq.  
ISAACS & ISSACS, P.S.C.  
1601 Business Center Court  
Louisville, KY 40299-2370  
*Counsel for Plaintiff*



Christopher R. Whitten  
James L. Culp

WHITTEN LAW OFFICE  
6801 Gray Road, Suite H  
Indianapolis, IN 46237  
PH: 317/362-0225  
FX: 317/362-0151

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION     )

IN THE MARION SUPERIOR COURT  
CAUSE NO. 49D05-2103-CT-009797

ANGELA WOLGAMOTT, PERSONAL  
REPRESENTATIVE FOR THE ESTATE  
OF KEVIN RAY BROWNING,  
DECEASED,

Plaintiff,

v.

CONTINENTAL EXPRESS, INC. and  
ERIC MILLS,

Defendants.

**FILED**

April 7, 2021  
CLERK OF THE COURT  
MARION COUNTY  
AG

**ORDER ON DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME**

This matter came before the Court on Defendants' Motion for Enlargement of Time to Answer Complaint. The Court having been first duly advised, now **GRANTS** the Motion.

IT IS THEREFORE ORDERED that Defendants Continental Express, Inc. and Eric Mills, shall have up to and including May 24, 2021, in which to respond to Plaintiff's Complaint.

So ORDERED this 6th day of April, 2021

  
\_\_\_\_\_  
Judge, Marion Superior Court 5

Copies to:

Carolyn C. Ely, Esq.  
ISAACS & ISSACS, P.S.C.  
1601 Business Center Court  
Louisville, KY 40299-2370

Christopher R. Whitten, Esq.  
James L. Culp, Esq.  
WHITTEN LAW OFFICE  
6801 Gray Rd, Suite H  
Indianapolis, IN 46237